



Direct Dial: 020-7901-7435

23 December 2003

The National Grid Company, CUSC Signatories and
Other Interested Parties

Your Ref: CAP057
Our Ref: IND/COD/CUSC/CAP057

Dear Colleague,

Amendment to the Connection and Use of System Code (“CUSC”) - Decision and Direction in relation to Proposed Amendment CAP057: “Removal of reference to Transmission Services Use of System Charges”.

The Gas and Electricity Markets Authority (the “Authority”¹) has carefully considered the issues raised in the Amendment Report² in respect of Proposed Amendment CAP057 “Removal of reference to Transmission Services of System Charges.

The National Grid Company plc (“NGC”) recommended to the Authority that the Alternative Amendment should be approved with an implementation date of 10 days after the Authority’s decision.

The Authority has decided not to direct a modification to the CUSC.

This letter explains the background to Proposed Amendment CAP057, as set out in the Amendment Report, and sets out the Authority’s reasons for its decision.

Background

Proposed Amendment CAP057 was raised by NGC on 18 September 2003 and was submitted for consideration at the CUSC Panel Meeting on 18 September 2003. At the meeting the Amendments Panel determined that the Proposed Amendment should proceed to wider consultation. A consultation paper was issued on 3 October 2003 with responses invited by 24 October 2003. The final Amendment Report was submitted to the Authority on 7 November 2003.

¹ Ofgem is the office of the Authority. The terms “Ofgem” and “the Authority” are used interchangeably in this letter.

² CAP056-066 Amendment Report dated 7 November 2003.

The Proposed Amendment

Proposed Amendment CAP057 seeks to remove the Transmission Services Use of System Charges definition and associated references from Paragraphs 3.22.6, 3.23, 3.24, 3.25, 9.22.3, 9.22.4 and the definition in Section 11 of the CUSC.

The Proposer considered that Proposed Amendment CAP057 would better facilitate achievement of the Applicable CUSC Objective C7F.1(a) for the efficient discharge by NGC of the obligations imposed upon it under the Act and by its Transmission Licence³. The Proposer considered that Proposed Amendment CAP056 would improve efficiency in the Amendment Procedures themselves to improve clarity and accuracy in the process of review.

Respondents' views

NGC issued a consultation paper on 3 October 2003 inviting views from CUSC Parties and interested parties.

The respondents' views are summarised and contained in the Amendment Report in respect of Proposed Amendment CAP057.

Amendments Panel Members' views

Two responses were received in response to the consultation relating to CAPs056-066. One of these responses related to Proposed Amendment CAP057.

The respondent believed that further amendments were necessary to the CUSC in addition to those identified as part of the original amendment proposal. It was suggested by this respondent that, in addition to the removal of text from Paragraphs 3.22.6, 3.23, 3.24, 3.25, 9.22.3, 9.22.4 and the definition in Section. 11, that further text be removed from the existing Paragraphs 3.21 (that would become Paragraph 3.20 in the event of CAP065 being approved by the Authority), 3.22.6 (Line. 7) and 3.24(b) to ensure consistency with the original objectives of the Proposed Amendment. An alternative amendment was therefore raised by this respondent to meet this objective.

NGC's recommendation

NGC recommended to the Authority that the Alternative Amendment be approved in preference to Proposed Amendment CAP057 with an implementation date of 10 days after the Authority's decision.

³ The Applicable CUSC Objectives are contained in Standard Condition C7F of the licence to transmit electricity treated as granted to NGC under Section 6 of the Electricity Act 1989 as amended (the "Transmission Licence") and are:

- (a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence; and
- (b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity.

Ofgem's view

Having had regard to its statutory duties, the Applicable CUSC Objectives and the consultation responses, Ofgem considers that inaccuracies are contained within both the Proposed Amendment and the Alternative Amendment as described within the Amendment Report.

The first of these relates to the removal of text from the existing Paragraph 3.21.1 of the CUSC. NGC's Amendment Report refers to the removal of such text from Paragraph 3.20 on the assumption that CAP065 is to be approved by the Authority (this proposes that existing Paragraph 3.20 be removed from the CUSC resulting in Paragraph 3.21.1 being designated as Paragraph 3.20.1). Ofgem considers that this is not made clear in the Amendment Report and may lead to some interested parties misinterpreting both the Proposed Amendment and the Alternative Amendment.

The second inaccuracy concerns Paragraph 3.22.6 and the draft legal text proposed to address this defect in the CUSC. Proposed Amendment CAP057 and the suggested alternative amendment recommend the removal of text that refers to 'Transmission Services Use of System Charges' in Paragraphs 3.22.6, 3.23, 3.24, 3.25, 9.22.3, 9.22.4 and the definition in Section 11. It is the considered view of Ofgem that the changes proposed to the legal text regarding Paragraph 3.22.6 goes beyond this by removing additional text. It is the considered view of the Authority that this additional text should not be removed as it also refers to Balancing Services Use of System Charges and Transmission Network Use of System Demand Reconciliation Charges. Removal of the proposed text would also result in grammatical errors being present within the amended version of the CUSC.

Having evaluated the above points, it is Ofgem's informed opinion that for both the Proposed Amendment and the Alternative Amendment to be approved, further changes would need to be made to improve both the clarity and transparency of the CUSC and therefore better facilitate achievement of the Applicable CUSC Objective C7F.1(a) for the efficient discharge by NGC of the obligations imposed upon it under the Act and by its Transmission Licence.

The Authority's Decision

The Authority has therefore decided not to direct an amendment to the CUSC, as set out in the Amendment Report.

Direction Under Condition C7F.7(a) of NGC's Transmission Licence

Having regard to the above, the Authority, in accordance with Condition C7F.7(a) of the licence to transmit electricity treated as granted to NGC under Section 6 of the Electricity Act 1989 as amended (the "Transmission Licence"), hereby directs NGC not to modify the CUSC, as set out in the Amendment Report.

In accordance with Condition C7F.7(b) of NGC's Transmission Licence, NGC shall not modify the CUSC in accordance with this direction of the Authority.

If you have any queries in relation to the issues raised in this letter, please feel free to contact me on the above number.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Simpson', written over a horizontal line.

Nick Simpson

Director of Industry Codes Development

Signed on behalf of the Authority and authorised for that purpose by the Authority